

DECD Policies



DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT

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Table of Contents

Preface	i
GENERAL POLICIES.....	1
I. Annual Income Calculation Policy – Federal.....	1
II. Compliance Monitoring Policy.....	1
III. Davis-Bacon Act – Federal Only	1
IV. Development Phase Monitoring Guidelines.....	2
V. Environmental – Federal NEPA.....	4
VI. Environmental – State CEPA.....	5
VII. Forms, Standards, and Procedures Policy	5
VIII. Insurance Policy	5
A. Insurance Requirements for Non-Profits and For Profits	5
B. Insurance Requirements for Housing Authority	7
IX. Market Analysis Policy.....	9
X. Minority & Women Business Enterprise Requirements	12
XI. DECD Set-Aside Policy	12
A. Set-Aside for Minority Business Enterprises.....	12
XII. Multi Jurisdictional HOME Projects – FEDERAL ONLY	13
XIII. No Additional Assistance Rule – FEDERAL ONLY	14
XIV. Non-Compliance Policy	14
XV. Procurement Policy	14
A. Methods of Procurement	15
XVI. Project Closeout.....	17
XVII. Property Standards Rule.....	17
XVIII. Real Property Acquisition Policy	17
A. Appraisals.....	17
B. Notifications.....	19
C. Sales History	20
XIX. Records Retention	20
XX. Relocation	21
A. Policy Statement.....	21
B. Applicability of URA/The “GIN”	21
XXI. Section 3 Plans – FEDERAL ONLY	22
XXII. Underwriting Standards Policy	23
A. Definitions.....	23
B. Underwriting Standards - Rental or Quasi-Ownership Properties	26
C. Modifications/Exemptions.....	30
XXIII. Waiver of Policy	30
HOMEOWNERSHIP POLICIES	32
I. Cooperative Policy	32
II. Developer/Buyer Subsidies.....	33
A. Developer Subsidy	33
B. Buyer Subsidy	33
C. Sales Price	34
D. Master Appraisal	34

DECD Policies

E. Closing Files	34
III. Equity Sharing.....	35
IV. Homeowner Affordable Housing Policy	35
A. Homebuyer Programs: Acquisition With or Without Rehabilitation	35
B. Homeowner Programs: Rehabilitation Without Acquisition.....	36
V. Homeowner Default and Foreclosure	37
VI. Homeowner Rehab Project Cost Policy.....	37
VII. Maximum Property Value Policy	37
VIII. Ownership Affordability & Enforcement	38
A. Affordability.....	38
B. Resale Restrictions.....	39
C. Subsidy Recapture	40
D. Appreciation	40
E. Choice of Enforcement Method	40
IX. Fixed Versus Floating Units Policy – HOME ONLY.....	41
X. Thirty Percent Rule.....	41
XI. Utility Allowances Policy	41
XII. Rental Affordability & Enforcement.....	42
A. Affordability Period Chart.....	42
XIII. Administrative Policy	43

DECD Policies

PREFACE

The following document contains a number of policies developed by the Department of Economic and Community Development for its Housing Development Programs. The policies are a mix of state policies and policies developed by HUD for the HOME Program. This compilation of policies is not intended to be exhaustive, but rather a collection of the more significant policies, policies where a choice of alternatives has been left to DECD or policies that address issues that seem to cause the most confusion. Therefore, the reader is cautioned to thoroughly review the HOME Final Rule and applicable state statutes – 8-37pp FLEX and 8-335 m, p, q, Housing Trust Fund, in the development or review of DECD applications.

GENERAL POLICIES

I. ANNUAL INCOME CALCULATION POLICY – FEDERAL

(24 CFR Section 92.203 (b))

Annual income is defined in 24 CFR Part 5 found in the Technical Guide for Determining Income and Allowances for the HOME Program. This is the Section 8 definition of annual income. This definition of income will be used by a sponsor in determining tenant or buyer eligibility and annual recertification of income during the original and any subsequent affordability periods.

II. COMPLIANCE MONITORING POLICY

DECD monitors all of its programs in accordance with the requirements of each program and the contract for financial assistance.

III. DAVIS-BACON ACT – FEDERAL ONLY

Contracts for projects with twelve (12) or more HOME-assisted units must contain a provision requiring the payment of not less than the wages prevailing in the community, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act. The requirements of the Act apply to all laborers and mechanics employed in the development of the housing. If Community Development Block Grant (CDBG) or Small Cities CDBG funds are also involved in the project, the requirements of the Davis-Bacon Act are triggered at eight (8) units. **Volunteers:** Davis-Bacon wage requirements do not apply to an individual who receives no compensation or is paid only expenses, reasonable benefits or a normal fee to perform the service for which the individual volunteered and who is not otherwise employed at any time in the construction work.

DECD Policies

The requirements of the Davis-Bacon Act and the procedures that must be followed to prove compliance are complex. Therefore, for projects that will be subject to Davis-Bacon, it is strongly recommended that the following HUD handbooks be consulted:

- **Making Davis-Bacon Work, A Practical Guide for States, Indian Tribes and Local Agencies**
- **A Contractor's Guide to Davis-Bacon Wage Requirements and Certified Payroll Reports**
- **Labor Standards Administration and Enforcement Guidelines for HUD Program Participants**

Failure to comply with the requirements of the Davis-Bacon Act or an inability to prove compliance is a serious matter and can result in a forfeiture of all Federal funds spent on the project.

It is the responsibility of the sponsor to monitor the contractor's payrolls and conduct interviews with tradesmen to ensure compliance with this law.

The only **exception** to Davis-Bacon applicability is for HOME funded Down Payment Assistance Programs that are intended to assist eligible buyers to purchase units in the private real estate market. However, should a unit or units be developed/rehabilitated with a written or implied commitment of HOME funds to assist in that unit's purchase, then Davis-Bacon may apply.

IV. DEVELOPMENT PHASE MONITORING GUIDELINES

During the development phase of a Project, the DECD Project Manager will adhere to the following monitoring procedures:

1. As soon as a loan or grant closing is scheduled and a construction start date is known, the Project Manager shall notify the Executive Director so they can determine if the project merits the assignment of a Construction Specialist.

DECD Policies

2. As part of the application process, the Project Manager shall meet with the sponsor regarding the responsibilities and obligations of the sponsor during the development of a project, including, but not limited to the following:
 - Davis Bacon Wage requirements - Federal
 - Section 3 Hiring requirements - Federal
 - EEO requirements, CHRO Affirmative Action Plan
 - Fair Housing Requirements
 - Property Acquisition and Relocation requirements
 - Procurement requirements
 - Draw down procedures and requirements
 - Rent or Sales Price Affordability
3. The Project Manager shall monitor a project for compliance with the above requirements on a regular basis within the development phase. This monitoring may be a “desk monitoring”: using reports submitted by the sponsor and other divisions within DECD, or it may be an actual on-site monitoring of the project. At least one on-site monitoring of all HOME projects will be conducted during the development phase. State funded projects will be monitored on-site depending on the results of a risk analysis.
4. If an “on-site” monitoring visit is to be made, at least 14 days prior to a scheduled monitoring visit the Project Manager shall send a letter or email to the sponsor explaining what subject areas will be covered during the monitoring visit.
5. In addition to the required monitoring visit(s), prior to the expected project completion and rent up, the Project Manager shall conduct a “Pre-Occupancy” meeting to review the approved tenant selection process, including all Affirmative Fair Housing Marketing requirements. The Project manager shall coordinate the Pre-Occupancy meeting with Asset Management staff. This requirement can be waived if it is determined that the developer/sponsor has recently successfully completed these steps for other development projects.
6. The Project Manager will set a date for a project completion visit if necessary. At that meeting, the Project Manager and the sponsor should discuss, and complete if possible,

DECD Policies

the HUD Project Completion Form for HOME projects and Initial Tenant Certification form for state projects.

7. Following every monitoring, the Project Manager will prepare a letter to the sponsor listing all **findings**, **deficiencies** and **concerns** and the action the Project Manager expects the sponsor to take to correct any problems.
 - A **finding** is a violation of statute, regulation, or contract provisions. Each finding must be clearly described and documented and accompanied by date specific remedies.
 - A **deficiency** is less serious than a finding. Like a finding, it should be clearly described, and the sponsor should be given a specified amount of time to correct the deficiency and report back to DECD.
 - A **concern** is the least serious of the three categories. It is often used to “head off trouble”, alerting the sponsor that this is an area that should be given some attention.
8. When all issues have been resolved, the Project Manager shall write a final clearance letter to the sponsor.

V. ENVIRONMENTAL – FEDERAL NEPA

(24 CFR Section 92.352)

Participation in the HOME Program requires compliance with the National Environmental Policy Act (NEPA). The Environmental Review Process and the compilation of the Environmental Review Record must be started as soon as the sponsor has determined the scope of the proposed HOME Project. . Because it will determine the review process to be followed, the first step should be a determination of whether the proposed project is exempt, categorically excluded or subject to assessment.

Sponsors must be reminded that they are prohibited from incurring any hard costs, entering into contracts, or acquiring property prior to HUD’s written approval of DECD’s Request for Release of Funds (RROF) as described below. Activities improperly incurring funds prior to the issuance of a Release of Funds may likely result in project ineligibility.

DECD Policies

Following completion of the Environmental Review and the Environmental Review Record, DECD is required to submit to HUD a Request for the Release of Funds (RROF). Until HUD's written approval of the RROF is received, DECD cannot commit HUD funds for any activity or project (24 CFR Part 58, Section 58.22(a)).

VI. ENVIRONMENTAL – STATE CEPA

[Statutory Citation]

VII. FORMS, STANDARDS, AND PROCEDURES POLICY

DECD may defer to the primary lender in a project with regard to forms, standards and procedures of that agency when not in conflict with DECD requirements.

DECD must receive copies of all forms standards and procedures of the primary lender.

VIII. INSURANCE POLICY

A. Insurance Requirements for Non-Profits and For Profits

1. Applicant shall procure and maintain for the duration of the <PER PROPOSAL, EITHER Agreement OR approved Project Financing Plan & Budget> the following types of insurance, in amounts no less than the stated limits, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder; provided however, that if this project is (i) financial assistance of less than \$100,000, (ii) a planning grant, or (iii) a predevelopment loan, only items 1 and 2 as set forth herein shall apply:
 - a. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include Premises and Operation, Independent Contractors, Product and Completed

DECD Policies

Operations and Contractual Liability. If a general aggregate is used, the general aggregate limit shall apply separately to the Agreement or the general aggregate limit shall be twice the occurrence limit.

- b. Workers' Compensation and Employer's Liability: Statutory coverage in compliance with compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with a minimum limit of \$100,000 each accident, and \$500,000 Disease – Policy limit, \$100,000 each employee.
- c. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of the contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the contract then automobile coverage is not required.
- d. Directors and Officers Liability: \$1,000,000 per occurrence limit of liability; provided, however, that Directors and Officers Liability insurance shall not be required for limited liability corporations or limited partnerships.
- e. Comprehensive Crime Insurance: \$100,000 limit for each of the following coverages: Employee Dishonesty (Form O), Forgery/Alteration (Form B), and Money and Securities coverage for Theft, Burglary, Robbery, Disappearance and Destruction.
- f. Builders Risk: (Construction Phase) With respect to any work involving the construction of real property during the construction project, if DECD is taking a collateral position in the property, the Applicant shall maintain Builder's Risk insurance providing coverage for the entire work at the project site. Coverage shall be on a Completed Value form basis in an amount equal to the projected value of the project. Applicant agrees to endorse the State of Connecticut as a Loss Payee.
- g. Property Insurance: (Post Construction) If DECD is taking a collateral position in the property, the Applicant shall maintain insurance covering all risks of direct

DECD Policies

physical loss, damage or destruction to real and personal property and improvements and betterments (including flood insurance if property is within a duly designated Flood Hazard Area as shown on Flood Insurance Rate Maps (FIRM) set forth by the Federal Emergency Management Agency (FEMA)) at 100% of Replacement Value for such real and personal property, improvements and betterments or the maximum amount available under the National Flood Insurance Program. The State of Connecticut shall be listed as a Loss Payee.

2. Additional Insurance Provisions

- a. The State of Connecticut Department of Economic and Community Development, its officials and employees shall be named as an Additional Insured on the Commercial General Liability policy. Additional Insured status is not required for items (A)2 through (A)7 above.
- b. Described insurance shall be primary coverage and Applicant and Applicant's insurer shall have no right of subrogation recovery or subrogation against the State of Connecticut.
- c. Applicant shall assume any and all deductibles in the described insurance policies.
- d. Without limiting Applicant's obligation to procure and maintain insurance for the duration identified in (A) above, each insurance policy shall not be suspended, voided, cancelled or reduced except after thirty (30) days prior written notice by certified mail has been given to the State of Connecticut, with the exception that a ten (10) day prior written notice by certified mail for non-payment of premium is acceptable.
- e. Each policy shall be issued by an Insurance Company licensed to do business by Connecticut Department of Insurance and having a Best Rating of A-, VII, or equivalent or as otherwise approved by DECD.

B. Insurance Requirements for Housing Authorities

DECD Policies

1. Applicant shall procure and maintain for the duration of the contract the following types of insurance, in amounts not less than the stated limits, against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder; provided however, that if this project is financial assistance of less than \$100,000, a planning grant or a predevelopment loan, items 3, 4, 5 and 6 of this subsection shall not apply:
 - a. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include Premises and Operation, Independent Contractors, Product and Completed Operations and Contractual Liability. If a general aggregate is used the general aggregate limit shall apply separately to this agreement or the general aggregate limit shall be twice the occurrence limit.
 - b. Workers' Compensation and Employer's Liability: Statutory coverage in compliance with compensation laws of The State of Connecticut. Coverage shall include Employer's Liability with a minimum limit of \$100,000 each accident, \$500,000 Disease – Policy limit, \$100,000 each employee.
 - c. Public Officials Liability: \$1,000,000 per occurrence limit of liability.
 - d. Comprehensive Crime Insurance: \$100,000 limit for each of the following coverages: Employee Dishonesty (Form O), Forgery/Alteration (Form B), Theft, Disappearance and Destruction (Form C), Robbery/Safe burglary (Form D).
 - e. Builders Risk: (Construction Phase) With respect to any work involving the construction of real property during the construction project, if DECD is taking a collateral position on the property, the Applicant shall maintain Builder's Risk insurance providing coverage for the entire work at the project site. Coverage shall be on a Completed Value form basis in an amount equal to the projected value of the project. The Applicant agrees to endorse the State of Connecticut as a Loss Payee.
 - f. Property Insurance: (Post Construction) If DECD is taking a collateral position on the property, the Applicant shall maintain insurance covering all risks of direct

DECD Policies

physical loss, damage or destruction to real and personal property and improvements and betterments (including flood insurance if within a duly designated Flood Hazard Area as shown on Flood Insurance Rate Maps (FIRM) which are approved by Federal Emergency Management Agency (FEMA) or its successor) at 100% of Replacement Value for such real and personal property, improvements and betterments. The State of Connecticut shall be listed as a loss payee.

2. Additional Insurance Provisions

- a. The State of Connecticut Department of Economic and Community Development, its officials and employees shall be named as an Additional Insured.
- b. Described insurance shall be primary coverage and Applicant and Applicant's insurer shall have no right of subrogation recovery or subrogation against the State of Connecticut,
- c. Applicant shall assume any and all deductibles in the described insurance policies.
- d. Each insurance policy shall not be suspended, voided, cancelled or reduced except after 30 days prior written notice by certified mail has been given to the State of Connecticut.
- e. Each policy shall be issued by an Insurance Company licensed to do business by the Connecticut Department of Insurance and having a Best Rating of A-, VII, or equivalent or as otherwise approved by DECD.

IX. MARKET ANALYSIS POLICY

To prove the marketability and need for a Project, an applicant may use one of the following three alternatives:

DECD Policies

1. Submit a current, purged Waiting List showing a 3-1 demand ratio for its proposed development, or
2. Submit a completed DECD Market Analysis Checklist (DECD Consolidated Application form). Following review of the Market Analysis Checklist, DECD may require a formal Market Study if it is determined that such a study performed by an independent professional will resolve questions raised by the Checklist; or
3. Submit a formal Market Study. If a study was done for another financial institution or governmental agency involved in the project and such study is less than one year old, this study may be submitted. If the study is more than one year old, the sponsor must submit with the market study an update of the study or the DECD Market Analysis Checklist.

In the event a formal Market Study is required, the following guidelines shall be followed:

1. The sponsor will select, commission and pay for a Market Analyst of its own choosing.
2. The Market Analyst will prepare a report which provides a complete data profile and analysis of the preliminary and secondary market areas in sufficient detail for DECD to make a determination of the feasibility of the proposed project.
3. Market studies must include data and analysis, conclusions and recommendations on the proposed project, and must be inclusive of the following areas in narrative form:
 - a. Demographic Analysis – This component reveals historic patterns as well as projects trends, usually for the nation, state and the market or sub-market area of the proposed project, and must address population growth or decline characteristics, income and family composition profiles;
 - b. Economic Profile and Projections – This analysis evaluates the current economy of the nation, state and market or sub-market, reveals prior trends, provides a current economic profile and supplies projections on employment characteristics and retail purchasing patterns for the proposed project. (**Note:** At the market or sub-market level, the analysis should also evaluate the effects of known major changes in the

DECD Policies

- local economy (plant closings, new facility construction, governmental actions, etc.) which could impact the feasibility of the proposed project.);
- c. Comparables and the Competition –The competitive strength of existing and proposed developments likely to impact the subject project is examined. The competition is evaluated on performance, actual or expected, and the level of amenities and other characteristics versus those in the proposed project. Current and historic occupancy levels, absorption or “lease-up” or sales performance, the rental rate or sales price structure, and amenity package content are among key descriptive characteristics of the competition which should be described and evaluated.
 - d. Trend Analysis and Growth Rate of Residential Rents or Sales Prices – This analysis must provide an in-depth evaluation of rental rate trends or sales price trends for the Northeast, state and market areas; project residential rates or sales prices for the area discussed; compare the proposed rental rates or sales prices with the area trends and provide a pro forma of rent increases or sales price increases and rental vacancy rates, if applicable, for the proposed project, including commercial income analysis, if applicable;
 - e. Market Support Area Analysis – The range of market support for the proposed project throughout one or more defined areas is evaluated. Area(s) of the project’s market strength are defined in terms of competing facilities, existing or proposed, and other factors such as the transportation system, physical constraints and demographic shifts;
 - f. Absorption Analysis – This evaluation usually includes an estimate of maximum development potential and a rate at which absorption can be expected to occur between commencement of lease-up or sales and sustaining occupancy for rental or final sale for ownership. Qualified rents and market rents should be analyzed separately and/or distinguished;
 - g. Site and Development Program Analysis – The geographic location and the physical characteristics of the site, proposed architecture and site planning, the amenity package, mix of proposed units and uses, and other intrinsic features required to

DECD Policies

- allow the development to compete at its maximum potential in the defined market must be evaluated;
- h. Summary – The Market Analyst must include a summary of the data with conclusion(s) and recommendations of the feasibility of the proposed project, supported by the documentation provided within the report;
 - i. Exhibits - The market study is expected to include charts, graphs, rent or sales price grids, maps and photographs of the subject property, neighborhood, city and region;
 - j. Qualifications – The Market Analyst must possess the necessary education background, academic affiliations, professional and business experience. The Market Analyst must also provide a statement to DECD attesting to a non-conflict of interest;
 - k. Assumptions and Limitations – All assumptions and limiting conditions upon which the market study is predicted must be clearly defined;
 - l. Market Study Updates – DECD reserves the right to require current information prior to final approval of the proposed development.

X. MINORITY & WOMEN BUSINESS ENTERPRISE REQUIREMENTS

Section 281 of the National Affordable Housing Act requires that minority and women owned business enterprises have opportunities in all contracting activities in HUD assisted housing. Sponsors, when soliciting/advertising for bids, must include a statement that says, “**minority and women owned businesses are encouraged to apply**”.

Each sponsor is required to obtain from the Connecticut Department of Administrative Services a list of minority and women owned businesses. This list may be found at:

<http://www.das.state.ct.us/purchase/setaside>

XI. DECD SET-ASIDE POLICY

A. Set-Aside for Minority Business Enterprises

DECD Policies

1. It is policy of the Department of Economic and Community Development (the “Department”) that recipients of financial assistance shall contract with small and minority/female owned businesses for projects for which the financial assistance is awarded. To comply with this policy. Applicants shall make a good faith effort:
 - a. to award contracts for at least twenty-five percent (25%) of the total financial assistance from the Department to Minority Business Enterprises, as defined in Section 4a-60(g) of the Connecticut General Statutes.
 - b. to award twenty-five percent (25%) of the small business set-aside amount to minority/female owned business enterprises; and
 - c. to award set-aside contracts through competitive solicitation in which only small business, minority, and/or female business enterprises may compete for the set-aside amount.
2. Department’s policy on set-aside contracts shall apply only when the Applicant enters into a contract or portions of contracts for costs pertaining to construction, rehabilitation, renovation or maintenance activities and the purchase of goods and services, including project planning costs. For purposes of this section, “goods and services” means the purchase of, and contracts for, supplies, materials, equipment, and contractual services, except gas, water, and electric light and power services.
3. Applicant shall file a report, in a form and manner prescribed by the Commissioner, prior to the expiration of the budget period, detailing its good faith efforts to comply with this policy and listing all small and minority/female owned businesses to which it awarded contracts and the mount of the contract award.

XII. MULTI JURISDICTIONAL HOME PROJECTS – HOME ONLY

When a project receives HOME funds/grants from more than one PJ, the total sum of funds granted from all of the PJs involved may not exceed the maximum allowed subsidy amount. The Project Manager must ensure that the other PJ(s) knows of DECD’s involvement with the project.

XIII. NO ADDITIONAL ASSISTANCE RULE – HOME ONLY

Additional HOME funds may be committed to a HOME-assisted Project only within the first 12 months following project completion provided the total HOME assistance does not exceed the maximum per unit subsidy. However, after the twelve (12) month period has expired, no additional HOME funds may be provided to the project through the project's required HOME affordability period.

XIV. NON-COMPLIANCE POLICY

DECD will assist a sponsor in meeting their contractual obligations. However, if a sponsor demonstrates a pattern of non-compliance in at least two (2) prior DECD funded projects, DECD may determine the sponsor ineligible to apply for any DECD program for two (2) years from the date of most recent project completion.

XV. PROCUREMENT POLICY

All sponsors will make an effort to provide for an open and competitive process; and reach out to neighborhood, small, minority, and women owned businesses. In accordance with 24 CFR 92.505, recipients of HOME funds must comply with the Uniform Administrative Requirements of 24 CFR 84 or 85 depending on the legal status of the applicant pertaining to the Procurement of property and services. The application of the requirements to the procurement of professional service providers or consulting services is stipulated in the information and guidance provided in HUD's Notice CPD 96-05. For non- HOME projects, this notice should be used by all sponsors as a guide.

Please note that the HUD Procurement Policy must be followed in the selection of all consultants and all providers of services paid for in whole or in part with HOME funds. It is important to note that a contract entered into with a consultant or contractor prior to the existence of an approved Procurement Plan or in noncompliance with that plan may either be invalidated or found ineligible for payment with DECD funds.

DECD Policies

A. Methods of Procurement

Sponsors are responsible for the satisfaction of all contractual issues arising out of procurements. This includes assuring that all contracts funded in whole or in part with DECD funds are awarded in accordance with federal law, contain all of the necessary provisions for compliance with applicable regulations, and are executed in conformance with the regulations. Below are four types of procurement methods that can be used.

1. **Procurement by sealed bids (formal advertising).** With the sealed bid method, which is the preferred method for procuring construction, bids are publicly solicited and a firm-fixed-price contract is awarded to the responsible bidder whose bid is the lowest.
 - **Sealed bids** method is appropriate when a complete specification or purchase description is available, two or more suppliers and/or contractors are able to compete effectively, the procurement lends itself to a firm fixed-price contract, and selection of the successful bidder can be made principally on the basis of price.
2. **Procurement by competitive proposal.** This technique is normally conducted with more than one source submitting an offer and involves issuing Requests for Proposals (RFP) or Qualifications (RFQ).
 - Competitive proposals method is generally used when conditions are not appropriate for the use of sealed bids. It may be used if the selection could be based on factors other than price. Procurement of architectural and engineering services falls under this category and only fixed price or cost reimbursement “not to exceed” contracts may be awarded.
 - When using competitive proposal/negotiation, proposals must be publicly solicited from three or more qualified sources, a RFP must be issued, all proposals received must be evaluated and the sponsor must have a formal process for technical evaluation of proposals received. Awards may be made to the “bidder” whose proposal would be most advantageous to the sponsor.
3. **Procurement by small purchase procedures.** Small purchase procedures are relatively simple and informal procurement methods for securing services, supplies, or

DECD Policies

other property that do not exceed the cost of \$100,000. Price or rate quotations shall be obtained from three or more qualified sources if small purchase procedures are used.

4. **Procurement by noncompetitive proposals.** This method is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive proposals method ***may only be used when*** the award of a contract is not feasible under the other three methods described above and when one of the following applies: competition is determined inadequate, the items or services required are available from only one source, or DECD authorizes noncompetitive proposals because of a public emergency is such that the urgency will not allow for any of the other three methods described above to be employed.

Bonding Requirements: For construction or facility improvement contracts or subcontracts exceeding \$100,000 DECD may accept the bonding policy of the grantee if it protects DECD interest. If not, minimum requirements are: bid security in the amount of 5% of the bid price, Performance Bond in the amount of 100% of the contract price, Payment Bond in the amount of 100% of the contract price, or comparable bid and contract securities acceptable to DECD.

Contract cost and price: sponsors must perform a cost or price analysis in connection with every procurement action including contract modifications. The extent of the facts surrounding the procurement will determine the method and degree of analysis, but grantees must make independent estimates before receiving bids or proposals.

Awarding Agency Review-Contracts: All contracts must be reviewed and approved by DECD, and if contracts have been awarded prior to applying to DECD, sponsors will certify that the procurement was in compliance with these procurement standards. DECD approved Contract Provisions must be attached and incorporated into all construction and professional contracts and it is suggested that sponsors use the Standard AIA forms for contracting with general contractors.

Contract Provisions: There are other provisions that must be included in the terms and conditions of the construction contract.

DECD Policies

*The following is a list of other federal requirements that must be considered in the development of a procurement policy:

- Davis-Bacon Act (Prevailing Wage Rates) – HOME ONLY
- Section 3 (Minority Hiring Plan) – HOME ONLY
- Minority and Women Business Enterprise Requirements

XVI. PROJECT CLOSEOUT

Until project closeout has been completed in accordance with DECD Project transfer and close-out requirements and project management responsibility has been transferred to the Compliance Office and Planning/Program Support Division (COP/PS), a DECD project is considered open and remains the responsibility of the Project Manager.

XVII. PROPERTY STANDARDS RULE

All housing units assisted with DECD funds, at a minimum, meet HUD's Section 8 Housing Quality Standards or state and local codes, whichever is more stringent.

The HOME regulations also require adherence to the four following laws and regulations governing the accessibility of federally-assisted buildings, facilities and programs. They are:

- **Americans with Disabilities Act** (42 U.S.C. 12131; 47 U.S.C. 155,201,218, and 226)
- **Accessibility Notice: Section 504 of the Rehabilitation Act of 1973 and The Fair Housing Act and their applicability to housing programs funded by the HOME Program** (CPD Notice 00-06)
- **Fair Housing Act** (42 U.S.C. 3601-19)
- **Section 504** (Section 504 of the Rehabilitation Act of 1973)

XVIII. REAL PROPERTY ACQUISITION POLICY

A. Appraisals

The following appraisal process and standards will be used for all Projects:

DECD Policies

1. **Number of Appraisals.** Whenever an acquisition involves real property (land, buildings, homes, etc.), one appraisal is required for HOME. If state bond funds are to fund acquisition, OPM requires (2) two appraisals.
2. **Appraisals of Similar Properties.** Some projects will involve multiple acquisitions of similar properties; i.e. the acquisition of multiple vacant three family homes on the same block. In those projects, with prior DECD approval, the properties may be aggregated into a single contract with an appraisal firm with instructions to provide a single value that may be applied to all acquisitions.
3. **Fair Market Valuation.** The appraisal should provide two fair market values—one "as is" and one "to be developed". Appraisers should appraise properties: "as is" - to determine value for the highest and best use under current zoning, and "to be developed" - to determine value after proposed renovations or construction.
4. **Retention of Appraisal Firm.** Appraisers chosen to appraise property under this section must be approved appraisers from the DOT appraiser list. The DECD reserves the right to review, analyze, and/or modify the appraisal and, if deemed necessary by DECD, to commission a review appraisal which will be paid for by the sponsor.
5. **Only Certified General Appraisers may be used; Conformance to USPAP.** The appraisal must conform to the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal must be signed and certified by the appraiser and should include the appraiser's state license number.
6. **Use of "Comparables".** A minimum of two-thirds of the properties used as comparisons must be non-government-assisted properties. Government-assisted property includes property acquisitions financed by HUD, USDA, CHFA, DECD and local governments.
7. **Sales History: Owner Affidavits.** As part of the acquisition file for each property acquired with State HOME funds, the sponsor must secure from the seller an affidavit documenting the dates and terms (sales price) for the prior three sales of the property or the sales history for the prior five years, whichever is greater. A sponsor must also place

DECD Policies

in the acquisition file a certification that it has reviewed the affidavits and that it is not acquiring a property where any unusual sales activity has occurred and that the acquisition is an "arms-length" transaction. (See attached "Owner's Affidavit"). The appraiser will also be instructed to provide from the municipal land records the sales history for the subject property for the last three arms-length sales.

8. **Non-HOME Fund Transactions.** If DECD HOME funds will not be used for acquisition, then an appraisal secured by the primary lender may be substituted, provided the appraisal includes an "as developed" value and is reviewed and accepted by DECD. (Note that if State bond funds will be used, two independent appraisals are required.)
9. **Records Retention.** Appraisers should be instructed to retain their files/records regarding a DECD appraisal for five years after acceptance by DECD.
10. **Scattered Site Program.** If a scattered site homebuyer program, a copy of the bank's FHA appraisal must be obtained for the file.
11. **Subdivisions.** If the proposed project is for a to-be-developed subdivision, the sponsor is likely to seek an FHA endorsement for the subdivision so the buyers can secure FHA Mortgage Insurance. In those cases FHA will order a Master Appraisal Report that will set the Fair Market Value for each of the various style homes that are part of the development. Such an appraisal report is acceptable for HOME projects.
12. **Timeliness.** Unless it can be demonstrated to the satisfaction of the Commissioner that market conditions in a given locale have not changed appreciably, any appraisal that is more than six (6) months old must be updated. If, in the determination of the Commissioner, market conditions in a given locale are being subjected to sudden negative influences, the Commissioner may require that an appraisal that is less than six months old be updated.

B. Notifications

DECD Policies

- Agents purchasing real property using DECD HOME funds must notify the seller or potential seller in writing that the acquisition of the property is completely voluntary and that the agent does not have the power of Eminent Domain (condemnation).
- When the agent makes an offer to acquire real property, the offer must be in writing and must include the basis upon which the offering price was determined; *i.e.* appraisal, market analysis, etc.

C. Sales History

- As part of the acquisition file for each property acquired with State HOME funds, the sponsor must secure from the seller an affidavit documenting the dates and terms of the previous three sales of that property. A sponsor must also place in the acquisition file a certification that it has reviewed the affidavits and that it is not acquiring a property where any unusual sales activity has occurred and that the acquisition is an “arms-length” transaction.
- In addition to the Owner’s Affidavit, the appraiser must be instructed to provide the sales history for the property for the past five years as documented in the town’s land records.

XIX. RECORDS RETENTION

A sponsor must retain general records for five (5) years after project completion. For homeownership projects, resale/recapture records must be retained for five (5) years after the period of affordability ends. For rental projects, tenant income, rent and utility calculations and property inspection information must be kept for the most recent five (5) years and until five (5) years after the end of the affordability period. Project completion is defined as the expenditure of all DECD funds and the occupancy of all DECD funded units.

XX. RELOCATION

Chapter 135 of the CT General Statutes (Sec.8-266 et seq, CGS)

A. Policy Statement

It is the policy of DECD that the dislocation of existing tenants, homeowners, businesses and farms be avoided in any development in which DECD is involved. Exceptions to this policy are:

1. Projects where the current living conditions of the existing tenants clearly do not meet local codes or HUD's Minimum Property Standards and the tenants' relocation will clearly result in a better living condition for them;
2. Projects where, in the opinion of the Commissioner of DECD, improvements to the living conditions in the neighborhood clearly outweigh the negative impact of tenant relocation;
3. Projects where, in the opinion of the Commissioner of DECD, the need for the number and type of resulting housing units clearly outweighs the negative impact of tenant relocation.

The above exceptions notwithstanding, the relocation of existing residents is a costly and time-consuming activity that may result in the project being found to be too expensive an undertaking.

B. Applicability of URA/The "GIN"

If a proposed HOME Project will result in the dislocation of any existing tenants, homeowners, businesses or farms, the relocation of those displaced must be done in accordance with the Federal Uniform Relocation Assistance and Property Acquisition Policies Act of 1970 (URA) or Chapter 135 of the CT General Statutes. The URA is a complex act that requires that various written notifications be sent to affect residents at differing milestones in the development process. Failure to notify the residents can significantly increase both the cost and processing time of DECD project.

DECD Policies

The first of these notices, the General Information Notice (GIN), is vital to keeping project costs within reason. The requirement for issuance of the GIN can be triggered at pre-application stage to DECD if the applicant has already acquired, entered into an agreement to acquire, or begun negotiations to acquire a property.

Therefore, applicants for projects that meet the conditions in the above paragraph must submit with their pre-application evidence that required GIN has been sent to all affected residents.

XXI. SECTION 3 PLANS – FEDERAL ONLY

Section 3: Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992, requires that economic opportunities generated by HUD financial assistance (HOME) for housing and community development programs be targeted toward low- and very low-income persons. In effect, this means whenever HUD assistance generates opportunities for employment or contracting, to the greatest extent feasible, sponsors must provide opportunities to low- and very low-income persons and to businesses owned by or employing low- and very low-income persons.

The Section 3 requirements apply to job training, employment, contracting and subcontracting and other economic opportunities arising from assistance provided for construction, reconstruction, conversion, or rehabilitation (including lead-based paint hazard reduction and abatement) of housing, other buildings, or improvements assisted with housing or community development assistance, including HOME.

Section 3 only applies to:

- Projects for which HUD's share of project costs exceeds \$200,000; and
- Contracts and subcontracts awarded on projects for which HUD's share or project costs exceeds \$200,000, and the contract or subcontract exceeds \$100,000.

In the case of a project for which HUD's share of project costs exceeds \$200,000, Section 3 applies to the sponsor. For this same project, a General Contractor whose costs exceed

DECD Policies

\$100,000 must sign on to the sponsor's Section 3 Plan. In addition, a Subcontractor whose costs exceed \$100, 000 would also sign on to the sponsor's Section 3 Plan.

Recipients whose projects do not fall under Section 3 are nonetheless encouraged to comply with the Section 3 preference requirements.

XXII. UNDERWRITING STANDARDS POLICY

These Standards apply to State Bond funded and HOME funded projects, including Homeownership projects. When CHFA, HUD or the Rural Development Agency have a financial interest greater than DECD then the DECD underwriting standards may be waived in favor of the underwriting policies of these other government agencies.. However, this does not preclude DECD from performing a layering analysis for the project. For all other projects where DECD has a financial interest, DECD's Underwriting Standards shall apply. It should be noted however that the Commissioner of DECD has the authority to waive requirements for specific projects if such waiver is requested in writing and is justified based on a DECD underwriting review.

A. Definitions

1. **"Annual Debt Service"** means all payments of principal and interest, or other charges, or any combination thereof, on loans secured by the project for a twelve (12) month period.
2. **"Annual Loan Constant"** means yearly fixed value of principal and interest payments on a specific loan.
3. **"Applicable Federal Rate"** means a monthly interest rate statistic issued by the Treasury Department that is based on the prevailing interest rate on mid-term and long-term government securities.
4. **"Appraisal"** means a report that sets forth the process of estimation and conclusion of value.
5. **"Bridge Loan Financing"** means a short- term loan made in anticipation of intermediate-term or long-term financing.
6. **"CHFA"** means the Connecticut Housing Finance Authority.

DECD Policies

7. **"Consumer Price Index"** means a statistical measure of the change in price levels of a predetermined mix of consumer goods and services.
8. **"Credit Enhancement"** means an asset pledged as security.
9. **"Cumulative Cash Return on Equity"** means a gain on the equity in a project at the time of financing which is a non-compounding sum of cash generated from ordinary cash revenues, less cash expenses.
10. **"Debt Service Coverage Ratio"** means a quotient that measures the number of times loan principal and interest are covered by net income. A higher ratio indicates a lower risk associated with a particular loan.
11. **"DECD Cost Guidelines"** means total development cost for a typical dwelling unit based on DECD minimum design standards for unit types, sizes, common areas, location and construction types.
12. **"Equity"** means the Owner's financial interest in real property above all claims and liens against it.
13. **"Grant"** means a contribution of funds that do not require repayment and are unsecured except to enforce compliance for use restrictions.
14. **"Subordinate Financing"** means an obligation that is subordinate in right or lien priority to an existing or proposed lien on the same property.
15. **"Life Cycle Cost Analysis"** means an evaluation of the capital and operational costs of a construction item or system during the estimated useful life of the project.
16. **"Loan"** means an interest free or interest-bearing obligation to repay principal.
17. **"Loan to Value Ratio"** means the ratio of the total amount of the secured loans to the appraised value of the property.
18. **"Market Analysis"** means a report that sets forth the process that analyzes the ability of a proposed use of an existing property to be absorbed, sold, or leased under current or anticipated market conditions.
19. **"Market Study"** means a report of a market analysis prepared by a third party.
20. **"Mortgage Insurance"** means a policy to cover the lender in case of default.
21. **"Net Operating Income"** means earnings after deducting normal operating expenses, including reserves for replacement, but before deducting depreciation, federal taxes and extraordinary gains, losses and charge-offs.
22. **"Nonprofit"** means a housing authority; a nonprofit corporation incorporated or authorized to do business pursuant to Chapter 600 of the Connecticut General Statutes, having as one of its purposes the construction, acquisition or related rehabilitation of

DECD Policies

affordable or assisted housing and having a certificate or articles of incorporation approved by the Commissioner; a quasi-public agency, as defined in Section 1-120 of the Connecticut General Statutes; a municipal developer; or a municipality or agency of a municipality; or a joint partnership where the nonprofit partner: (a) is materially participating in the development and operation of the development throughout the compliance period; (b) owns at least 51% of all general partnership interest in the development; (c) is not affiliated with or controlled by the for-profit organization; and (d) was not formed for the principal purpose of qualifying as a nonprofit organization to gain some advantage eligible to only nonprofit developers.

23. **"Operating Deficit Letter of Credit"** means a written document issued by a financial institution guaranteeing the payment of drafts up to a stated amount to cover operating losses.
24. **"Rent"** means charges, excluding security deposits, down payments and membership fees, paid for occupancy of rental units or LEC/Mutual Housing units in housing developments that receive financial assistance from DECD
25. **"Reserve for Replacement"** means a regulatory or contractual requirement to set aside cash for the replacement of capital items; funding for major repairs; additions that improve the property; or betterments that replace existing assets with more modern or efficient versions.
26. **"Return on Equity"** means net income divided by total equity that represents a profit provided to the developer based on the amount contributed to the project.
27. **"Stabilized Year"** means the first 12 months after 100% occupancy, less vacancy allowance.
28. **"State Plan of Conservation and Development"** means the five-year plan prepared by the Office of Policy and Management in accordance with Sections 16a-24 through 16a-33 of the Connecticut General Statutes, which provides the growth, resource management and public investment policies for the state.
29. **"Syndication"** means the process of structuring financial arrangements, legal documents, and investors to take advantage of any or all available tax benefits.
30. **"Total Development Cost" (TDC)** means all expenses incident to the creation of a project, including developer's fees.

B. Underwriting Standards - Rental or Quasi-Ownership Properties

The following underwriting standards indicate the degree of risk associated with providing permanent financing. These standards may be revised as market and economic conditions dictate.

1. Maximum Loan Amount - The maximum permissible loan for all projects shall be equal to the lower of the following based on market, location, and other conditions. Non-amortizing soft debt may be in excess of these limits if the underwriting demonstrates the necessity of such a waiver.
 - An amount based on applicable statutory limits;
 - An amount based on the loan to value ratio;
 - An amount based on the debt service coverage ratio; or
 - The annual debt service divided by the applicable annual loan constant.
2. Debt Service Coverage Ratio –
 - The minimum coverage for all projects is 1.15. FHA-insured loan - 1.10 or FHA standard, whichever is higher; non-residential space - 1.20 relative to the net income. If coverage is not sufficient, DECD may require that the developer establish a debt service coverage reserve account with non-DECD funds.
3. The market value established in the “as-is” appraisal shall be one
 - The consideration of facts and circumstances used to determine the value to be financed for the real property. The appraisal shall be in a form and manner acceptable to DECD.
 - The “to-be-developed” value using the market and income approaches may be used to determine the potential underwriting risk.
4. Loan to Value Ratio (LTV) - The loan to value ratio shall not exceed eighty (80%) percent of the lesser of the appraised market value or total replacement cost. This ratio may be increased to ninety (90%) percent if it is in the best interest of the State. This requirement may be modified or exempted for projects developer of co-developed by not-for-profit developers.

DECD Policies

5. Total Project Cost - The total project cost shall be evaluated based on the DECD Cost Guidelines, as adjusted from time to time. Adjustments due to extraordinary features, location, project type and time shall be given consideration. Relocation costs must be included.
6. Loan Term and Rate - When DECD and CHFA financing is involved, the loan term shall be coterminous. The interest rate may be fixed or variable to the extent feasible or if it is in the best interest of the state. Loan terms generally should not exceed 30 years without written explanation.
7. Developer's Equity - An Owner shall have a minimum continued financial interest in the development of at least two (2%) percent of total development cost for no less than ten (10) years. This requirement may be modified or exempted if not supported by DECD underwriting.
8. Return on Equity -
 - The Owner's equity in a development shall consist of the difference between the total amount of certified project costs whether or not such cost has been paid in cash or in a form other than cash and the total amount of mortgage and/or grant proceeds.
 - Return on equity shall be subject to an agreement between the DECD and the Owner limiting the Owner, and its principals or stockholders to a return on the Owner's equity in any development assisted by DECD. To the extent economically feasible, the cumulative cash return on equity shall be no greater than 10% per annum.
 - To the extent economically feasible, the cumulative cash return on equity shall be increased by up to an additional 2% for developments in areas designated as urban centers and urban conservation areas as defined in the State Plan of Conservation and Development.
9. Developer's Fee – A developer's fee shall not exceed 10% of total development costs less the cost of land. When State Bond funds will be used to pay for a developer's fee, then the State Developer's Fee Regulations shall apply. When the developer's fee is paid from Federal HOME funds, the following schedule applies:

DECD Policies

- 25% of the fee shall be paid at construction contract.
- 75% of fee shall be paid upon completion of initial rent-up in accordance with projections.

If actual total project costs exceed the budgeted TDC then the developer's fee must be used to defray the additional costs.

10. General Contractor's Overhead. Profit and General Requirements

- a. Overhead and profit are not to exceed 12 percent(12%) of the total construction cost.
- b. General Requirements shall be part of the cost certification process and may not exceed four percent (4%) of the contract price. An additional percentage may be permitted for extraordinary circumstances as determined by DECD and/or CHFA.

11. Bridge Loan Financing –

- All sources of funds shall be available to the development prior to execution of a contract for DECD financial assistance. Funds derived from the syndication of Low Income Housing and/or Historic Tax Credits shall be available either from the syndication proceeds or bridge loan financing in an amount and manner satisfactory to the DECD. If there is an identity of interest between the lender and either the syndicate, the Owner, or the developer, the rate shall be a consistent with the Applicable Federal Rate (AFR). The interest cost of financing the developer's fee shall not be recognized.
- This requirement may be modified or exempted for not-for-profit developers.
- Non-profit developer may use HOME, FLEX or HTF funds to repay bridge loans. This intention must be fully disclosed in the initial application materials and approval by DECD.

12. Syndication Costs - The costs of syndication shall not exceed a rate acceptable to the DECD based on fees as a percentage of syndication proceeds. DECD will defer to the syndication cost standards used by CHFA for Low Income Housing Tax Credit funded projects and the Connecticut Historic Commission for Historic Tax Credit funded projects as long as such fees appear reasonable.

DECD Policies

13. Rent Limitations - To the extent economically feasible, the maximum gross rents shall be set at a level affordable to the targeted income group(s) to be served; HOME, FLEX and HTF program rents are published by DECD and updated annually.

14. Income Trends – DECD policy is that project income be trended at 2% annually.

15. Expense Trends - DECD policy is that project expenses be trended at 3% annually

16. Vacancy Assumptions –

- Residential Properties - the vacancy rates shall be based on the percentage of the Area Median Income (AMI) of the intended tenant population as of the stabilized year (if multiple AMI, then blend rates):

AMI	Vacancy Rate
0 - 50%	2.5 - 5%
51- 80%	5.0 - 10%
> 80% AMI	10 %

- Non-residential Properties – The vacancy rate calculation for non-residential income will be evaluated on a case by case basis using current market conditions and the proposed commercial use.

17. Reserve for Replacement –

- The project shall establish a reserve for replacement account that shall maintain an allowance sufficient for repair, replacement and maintenance depending on the type and location of housing in a form and manner acceptable to DECD. For the first year of operation use \$90 per unit per month for families and \$55 per unit per month for elderly.
- For subsequent years, the annual amount is to be established based on a Life Cycle Cost Analysis of the useful life of all major building systems. A Capital Needs Assessment report will be required for all Rental developments and updated every five (5) years.

DECD Policies

- Reserve for Replacements plus any interest or other earnings thereon shall at all times remain with the project, even with changes in ownership.

18. Cost Certification – For all DECD funded projects, the Owner's and the general contractor's cost certification is required within 60 days of the project's substantial completion date. A cost certification must be submitted which complies with guidelines prescribed in HUD Handbook 4470.2, as amended for all HOME projects. DECD will accept cost certifications submitted to CHFA.

19. Restrictive Covenant - All projects will have a restrictive covenant identifying all DECD and/or HOME compliance requirements.

C. Modifications/Exemptions

The Commissioner may modify or exempt not-for-profit sponsored developments from these requirements for the following subsections: **Debt Service Coverage Ratio, Loan to Value Ratio, and Developer's Equity**. Requests for a modification must be in writing from the Owner. Such modification/exemption shall be granted for the following reasons:

1. Consolidated Plan/Action Plan;
2. Service to very low-income households;
3. Minimal risk to the DECD;
4. Conflicting public policies; or
5. Acceptable financial capacity and a proven track record.

XXIII. WAIVER OF POLICY

The Commissioner may waive any DECD policy not required by 24 CFR 92 , Sec 8-37pp CGS or Sec. 8-336m CGS provided it is not in conflict with Federal or State statutes and regulations, and requests for a waiver must be in writing from the sponsor. Such a waiver may only be granted if there is sufficient evidence that:

DECD Policies

- The literal enforcement of such standards provide for exceptional difficulty or unusual hardship and caused by the sponsor.
- The benefit to be gained by the waiver clearly outweighs the detriment which will result from enforcement of the requirement;
- The waiver is in harmony with conserving public health, safety, and welfare; and
- The waiver is in the best interest of the State.

HOMEOWNERSHIP POLICIES

I. COOPERATIVE POLICY

Ownership – Except in the exception noted below, Cooperatives organized under the provisions of the Connecticut Common Interest Ownership Act (CIOA) will be treated as ownership projects under the HOME Program. Therefore, the income limits for initial occupancy will be 80% of area median income. The sales price of the cooperative unit cannot exceed the FHA Section 203b limits and the monthly carrying charges will be determined in accordance with applicable HOME rent limits.

Continued Occupancy - Surcharges – As a unit owner under CIOA a cooperative member is not subject to annual income recertification or over-income surcharges.

Resale Restriction – When a cooperative member sells his/her unit, it must be sold to someone whose income is at or less than 80% of area median income. It is the Cooperative Association's responsibility to do all of the required income verifications. DECD will monitor the Cooperative's records and procedures.

Restrictive Covenants – A deed restriction must be placed on the Cooperative's property imposing the required resale restriction.

Exception – The development of some Cooperatives depends on equity raised through the sale of federal Low Income Housing Tax Credits. In those cases, the Cooperative must be considered as a rental project for at least 15 years. The structure of the syndication agreement can provide for conversion to a true Cooperative after year 15, but in the meantime, it is legally a rental and subject to all of the HOME Rental Rules on income and rent (carrying charges) limits, etc.

II. DEVELOPER/BUYER SUBSIDIES

DECD Programs permit several types of homebuyer subsidies. The most commonly used are the developer's subsidy and a buyer subsidy.

A. Developer Subsidy

A developer's subsidy is equal to the difference between the total cost of project development as approved by DECD and the home's Fair Market Value (FMV). This subsidy form recognizes that the cost of developing a single family home in urban areas frequently exceeds the unit's fair market value. Therefore, without a subsidy, developers will be unwilling to construct or rehabilitate needed ownership housing.

The amount of the developer's subsidy relies on two numbers – the unit's TDC and other related costs and the unit's appraised fair market value. To prevent undue enrichment of the developer, it is vital that both numbers be adequately supported; the TDC with an independent cost estimate and the fair market value with an approved appraisal. The developer's subsidy may be paid to the developer periodically during the development process based on evidence of paid project invoices.

B. Buyer Subsidy

Knowing that an increase in urban homeownership is important to revitalizing our cities, the buyer's subsidy subsidizes the difference between the unit's FMV and the price at which an income eligible family can afford to buy the home pursuant to DECD's affordability guidelines. The buyer's subsidy recognizes that even if the cost of a unit is subsidized down to its fair market value, it may still be too expensive for a low or moderate-income family to afford. While the buyer's subsidy may be determined at the time a buyer is selected, it may not be paid out until the buyer's closing.

The amount of the buyer's subsidy is dependent on the sales price of the unit and the targeted income of the buyer. Some developers "back into" the unit's sales price by determining what a family of four with an income at 80% of area median income can afford to pay. The developer then prices all units at that same price. While this may be a valid

DECD Policies

method for *estimating* the potential total of buyer subsidies needed for a project, it does not allow for the differences in the finances of one individual from another.

Therefore, the developer must determine how much of a subsidy each family actually needs to buy the home based on the family's income at the time of the buyer's application for assistance. If the developer finds that the actual families selected have incomes that, on average, are lower than the targeted income used in the application, the developer may apply for additional Buyer Subsidies.

A Buyer's Subsidy is usually secured through a second mortgage on the property.

C. Sales Price

Often there is confusion between the sales price of a unit and the net cost of the unit to an eligible family. For the purpose of this program, the sales price is the unit's fair market value according to a DECD approved appraisal. It is not the net price paid by an eligible family following the deduction of the buyer's subsidy. It is the fair market value that should be recorded on the land records. To record the net price would serve to lower the value of all homes in the neighborhood – a result that is contrary to the intent of the program.

D. Master Appraisal

If the proposed project is for a to-be-developed subdivision, the developer is likely to seek an FHA endorsement for the subdivision so the buyers can secure FHA Mortgage Insurance. In those cases, FHA will order a Master Appraisal Report that will set the Fair Market Value for each of the various style homes that are part of the development. The Master Appraisal is acceptable to DECD in lieu of a DECD appraisal and the values set in the Master Appraisal should be used to establish sales price of the units.

E. Closing Files

If the Subsidy Recapture method of affordability enforcement is used, the developer must submit to DECD a complete copy of all closing documents, including the closing statement, for each unit sold. The original of this file should be forwarded to the Business Division as

DECD Policies

the Master File. A copy should be sent to the Compliance Office and Planning/Program Support Division (COP/PS).

III. EQUITY SHARING

For units where subsidy recapture has been used as the method to enforce affordability, DECD will require an equity sharing arrangement where the DECD-assisted unit is located in a neighborhood with rapidly appreciating housing costs. A neighborhood with “rapidly appreciating housing costs” is one where, at the time of application, housing costs are increasing at a rate beyond the rate for housing costs increases documented in the Consumer Price Index.

The sponsor may propose its own equity sharing plan or may use the following formula:

Years of Ownership	DECD Share	Owner's Share
1	100%	0%
2	90%	10%
3	80%	20%
4	70%	30%
5	60%	40%
6	50%	50%
7	40%	60%
8	30%	70%
9	20%	80%
10	10%	90%
>10	0%	100%

The Equity Sharing requirement shall be applied prior to the recapture of the subsidy and the owner and DECD shall be entitled to their respective share irrespective of whether or not the subsidy can be recaptured. This provision shall expire with the expiration of the Affordability Period.

IV. HOMEOWNER AFFORDABLE HOUSING POLICY

A. Homebuyer Programs: Acquisition With or Without Rehabilitation

Maximum Sales prices shall be established so as to allow the development of affordable housing which is intended to be affordable to families with incomes equal to or less than 80% the Area Median Income as determined by the U.S. Department of Housing and Urban

DECD Policies

Development for HOME, 100% AMI for FLEX, and 120% AMI for Housing Trust fund. For the purposes of this section, maximum sales price shall not exceed CHFA limits for the FLEX and HTF Programs, and the FHA 203(b) maximum mortgage limits for HOME.

For homeownership acquisition activities, such as development subsidy, buyer subsidy, or both, DECD assisted ownership units shall be considered “affordable” when the principal, interest, taxes, homeowner insurance, required association fees and mortgage insurance premiums on the property do not exceed 30% of the gross annual income for eligible persons or families. However, if the purchase is part of an approved governmental program, DECD may accept that agency’s higher ratios upon the written request of the developer. Approved governmental programs include, but are not limited to, CHFA, FHA, USDA, Federal Home Loan Bank, CT CDFI Alliance and Fannie Mae.

Buyer eligibility must be determined and documented by the developer or grantee and is subject to re-certification if more than 6 months has elapsed between commitment and closing.

The assisted housing must remain the principal residence of the homebuyer during the period of affordability and is subject to resale or recapture provisions effected through deed restrictions.

B. Homeowner Programs: Rehabilitation Without Acquisition

Affordability for ownership units that receive funds for rehabilitation shall be established so that the units are deemed to be affordable.

As such, housing that is currently owned by an income eligible family for which rehabilitation funding is secured qualifies as affordable housing only if the housing is the principal residence of an owner whose family income is equal to or less than 80% of the Area Median Income for HOME, 100% AMI for FLEX and 120% AMI for Housing Trust Fund.

The assisted housing must remain the principal residence of the homebuyer during the period of affordability and is subject to resale or recapture provisions effected through deed restrictions.

DECD Policies

V. HOMEOWNER DEFAULT AND FORECLOSURE

It is imperative that the sponsor develops procedures that ensure, to the greatest extent possible, that the first and/or second mortgage holder(s) notify the sponsor when a DECD-assisted unit is in danger of default.

Should an effort to resolve the default fail and a foreclosure action is brought against the homeowner, the sponsor must notify DECD immediately in writing within 30 days.

VI. HOMEOWNER REHAB PROJECT COST POLICY

For Homeowner Rehabilitation projects, administrative/soft costs are permitted within the following limitations.

- Program Administrative costs (overhead costs to the administering agency) shall not exceed 10%.
- Individual project soft costs including consulting services shall not exceed 10%.

VII. MAXIMUM PROPERTY VALUE POLICY

DECD has established a “Maximum Property Value” for every ownership unit assisted with DECD funds. The Maximum Property Value sets the upper limit of the Fair Market Value of any DECD-assisted single-family home (1-4 units – owner occupied). The reason for setting a limit is to ensure that DECD funds are not used to assist or develop homes that are “above the market” for a given county.

In the HOME Program, HUD permits PJs to set the limit using one of two methods – an actual market study to determine 95% of the median area purchase price or adoption of maximum property values based on the HUD Section 203(b) mortgage limits. DECD has elected to use the Section 203(b) limits for HOME.

DECD Policies

For the Affordable Housing (FLEX) and Housing Trust Fund programs, the maximum property value cannot exceed sales price limits established by the CT Housing Finance Authority for its mortgage programs.

The adoption of these limits notwithstanding, it is also the policy of DECD that DECD funds be used as effectively as possible and that developers not be unduly enriched. Therefore, the design and function of DECD-assisted units must be appropriate and the sales prices must be reasonable for the neighborhood involved. This will necessarily involve a comparison of the development costs of the DECD project with the development costs of similar private non-assisted housing in the same market area.

VIII. OWNERSHIP AFFORDABILITY & ENFORCEMENT

A. Affordability—Rev. 5/2009

Affordability - DECD-assisted ownership units shall be considered “affordable” when the principal, interest, taxes, homeowner insurance, required association fees and mortgage insurance premiums on the property are not less than 25% nor greater than 30% of the gross annual income for eligible persons or families. However, if the purchase is part of an approved governmental program, DECD may accept that agency’s higher ratios upon the written request of the developer. Approved government programs include, but are not limited to, those sponsored by CHFA, FHA, USDA, Federal Home Loan Bank, Connecticut CDF Alliance and Fannie Mae.

Contracts for financial assistance executed after June 1, 2009 shall have “back-end” ratios not greater than 40%; however, waivers may be granted by the CD Administrator or designee in the cases of “approved government mortgages”.

There is no limit on cash to the buyer remaining after closing.

DECD Policies

Affordability Period Chart

HOME Program – The minimum affordability period is established by HUD based on the amount of HOME financial assistance in each unit; however, the applicant may request or DECD may require a longer affordability period.

<u>HOME Investment Per Unit</u>	<u>Length of the Affordability Period</u>
Less than \$15,000	5 Years
\$15,000 - \$40,000	10 Years
more than \$40,000	15 Years

Affordable and Housing Trust Fund Programs

<u>DECD Investment Per Unit</u>	<u>Length of the Affordability Period</u>
Less than \$15,000	5 Years
\$15,000 - \$40,000	10 Years
more than \$40,000	15 Years

Affordability Enforcement - For DECD- assisted ownership projects, DECD will require that a Resale and/or Subsidy Recapture restriction be applied to the units. If the sole financial assistance to a unit is a developer's subsidy (not combined with a buyer's subsidy), then the only type of restriction permitted is a resale restriction.

B. Resale Restrictions

Resale Restrictions – A Resale Restriction requires the resale of the unit to income-qualified homebuyers throughout its affordability period. Successful use of this restriction requires imposition of a deed restriction or a restrictive covenant at the initial sale and assistance at the time of resale.

Since compliance with the resale restriction requires that the home be sold to a buyer whose income meets the requirements of the DECD Program as of the date that the buyer applies to purchase the home the sales price must necessarily be limited. Therefore, in order to

DECD Policies

provide the seller with a fair return on his/her investment, it may be necessary for the sponsor to provide a subsidy to the new buyer to make the unit affordable. If a new subsidy is required the affordability period may have to be revised based on the following procedure:

The remaining period of affordability will be the greater of the period of affordability remaining from the initial DECD assistance to the unit versus the affordability that would be required as a result of the amount of the new DECD assistance.

C. Subsidy Recapture

Subsidy Recapture – The Subsidy Recapture requirement may be structured so that it is reduced using the following formula:

Yearly Reduction = $1/\#$ where # equals the number of years of affordability required. Thus, if the affordability period is 15 years, each year the amount of subsidy subject to recapture decreases by $1/15$.

D. Appreciation

Appreciation – In some neighborhoods there is little or no appreciation evident in the value of real estate property. In those cases, DECD will permit the owner to recapture his/her original investment as well as his/her documented investment in property improvements prior to recapture subsidy.

E. Choice of Enforcement Method

If the sponsor is administering a program with buyer subsidies and it has a long-standing history in owning and managing affordable housing, it may select to use one or the other form of enforcement. However, the specific method must be selected prior to the start of the program. If the sponsor does not have the required long-standing experience and its program will utilize buyer subsidies, it must choose the subsidy recapture method of enforcement.

IX. FIXED VERSUS FLOATING UNITS POLICY – HOME ONLY

(24 CFR Section 92.252 (j))

For properties with both assisted and non-assisted units, the sponsor must select whether the units will be “fixed” or “floating” at the time of contract. When HOME-assisted units are fixed, the specific units that are HOME-assisted (and, therefore, subject to HOME rent and occupancy requirements) are designated and never change throughout the period of affordability. When units are floating, the units that are designated as HOME-assisted may change over time as long as the total number of HOME-assisted units in the project remains constant. In addition, the units must, at a minimum, be comparable in terms of size, features, and number of bedrooms to the originally designated affordable HOME units.

HOME-assisted units must be identified in the Project Management Plan by unit number or address and it must be noted whether the units are fixed or floating.

X. THIRTY PERCENT RULE

The HUD published High and Low HOME Rent Limits are technically affordable (the 30% rule) to families with incomes exactly at 65% and 50% of area median income. Therefore it has to be assumed that as a family’s income decreases below those limits, the rent becomes less and less affordable. Since DECD gives additional consideration to applicants that target income groups that are lower than or in between the two benchmarks mentioned above, applicants seeking this special consideration must demonstrate that their proposed rent schedule will be affordable to the number of lower income families claimed. Evidence of this affordability should include a simple pro-forma demonstrating that the rent does not exceed 30% of the monthly income of a typical family in the applicant’s targeted income group.

XI. UTILITY ALLOWANCES POLICY

The calculation of Section 8 FMR’s, HUD’s High and Low HOME rent limits and FLEX and HTF rents includes all utilities and housing-related services, except telephone. However, in practice, many utilities - water, heat, air conditioning, fuel, etc.- are not included in rents and are paid by the tenant.

DECD Policies

When tenants pay some or all utilities, the maximum allowable rents are reduced by the appropriate utility allowance. In applying a utility allowance to the rent schedule, a sponsor may use the utility allowances schedule (if one exists) prepared by the local public housing authority, the utility allowance schedule adopted by DECD, or the sponsor may propose an allowance schedule specific to the project. If a specific allowance is proposed, it must be supported by documentation and approved by DECD.

XII. RENTAL AFFORDABILITY & ENFORCEMENT

A. Affordability Period Chart

HOME Program – The minimum affordability period is established by HUD based on the amount of HOME financial assistance in each unit; however, the applicant may request or DECD may require a longer affordability period.

<u>HOME Investment Per Unit</u>	<u>Length of the Affordability Period</u>
Less than \$15,000	5 Years
\$15,000 - \$40,000	10 Years
more than \$40,000	15 Years
new construction of Rental Housing	20 Years
refinancing of Rental Housing	15 Years

Affordable and Housing Trust Fund Programs

<u>DECD Investment Per Unit</u>	<u>Length of the Affordability Period</u>
Less than \$15,000	5 Years
\$15,000 - \$40,000	10 Years
more than \$40,000	15 Years

XIII. ADMINISTRATIVE POLICY

Establishment of an Affordability Policy for the Affordable Housing Program (Flexible) approved by Commissioner James F. Abromaitis on July 12, 2006. See attached policy.

Department of Economic and Community Development

Administrative Policy

To: Administrators and Managers
From: James F. Abromaitis, Commissioner
Date: 7/10/06
Re: Establishment of an Affordability Policy for the Affordable Housing Program (Flexible)

This policy is established to carry out the objectives of the Affordable Housing Program consistent with the provisions of Section 8-37pp of the Connecticut General Statutes, the Affordable Housing Program (a.k.a. "Flexible" Housing Program).

In accordance with Section 8-37pp, subsection (e), the terms and conditions for financial assistance under the Affordable Housing Program shall be established in order to protect the state's interests as both prudent and necessary. In order to accomplish this directive, the following policy is hereby implemented:

Rental Housing: Development or Rehabilitation:

Maximum Rents shall be established by DECD for rental projects developed under this program and shall be affordable to families with incomes equal to or less than the Area Median Income, as determined by the U.S. Department of Housing and Urban Development (HUD).

The Fair Market Rents as published from time to time by HUD shall be the basis used by DECD in determining a maximum limit on affordable rental costs for families participating in the Affordable Housing Program. Affordable rents shall be established by bedroom size, and shall not exceed 120% of HUD's Fair Market Rents. Rental projects with unit rents at or below the Maximum Rent as established by DECD, but not exceeding 120% of HUD's Fair Market Rents, shall be considered to have met the affordability requirements of this program.

The most recently published Fair Market Rents are attached as a reference, along with the current Maximum Rent Schedule for the Affordable Housing Program (Attachment 1).

Tenants must be income eligible upon initial occupancy. Tenants who subsequently become over income may remain in occupancy and must be charged rent equal to 30% of their monthly income.

Homebuyer Programs: Acquisition with or without Rehabilitation

Maximum Sales prices shall be established so as to allow the development of affordable housing which is intended to be affordable to families with incomes equal to or less than the Area Median Income, as determined by the U.S. Department of Housing and Urban Development. For the purposes of this section, maximum sales price shall not exceed CHFA limits.

DECD Policies

For homeownership acquisition activities, such as development subsidy, buyer subsidy, or both, DECD-assisted ownership units shall be considered “affordable” when the principal, interest, taxes, homeowner insurance, required association fees and mortgage insurance premiums on the property do not exceed 30% of the gross annual income for eligible persons or families. However, if the purchase is part of an approved governmental program, DECD may accept that agency’s higher ratios upon the written request of the developer. Approved governmental programs include, but are not limited to, CHFA, FHA, USDA, Federal Home Loan Bank, CT CDFI Alliance and Fannie Mae.

Buyer eligibility must be determined and documented by the developer or grantee and is subject to re-certification if more than 6 months has elapsed between commitment and closing.

The assisted housing must remain the principal residence of the homebuyer during the period of affordability and is subject to resale or recapture provisions effected through deed restrictions.

Homeowner Programs: Rehabilitation without Acquisition

Affordability for ownership units that receive funds for rehabilitation shall be established so that the units are deemed to be affordable. As such, housing that is currently owned by an income eligible family for which rehabilitation funding is secured qualifies as affordable housing only if the housing is the principal residence of an owner whose family income is equal to or less than the Area Median Income, as determined by the U.S. Department of Housing and Urban Development.

The assisted housing must remain the principal residence of the homebuyer during the period of affordability and is subject to resale or recapture provisions effected through deed restrictions.

For all projects: DECD shall give priority to projects that promote the goals of C.G.S. Sec. 8-37cc. Priority consideration for funding will also be given to those rental or homeownership projects that demonstrate the families to be served will pay no more than 30% of their monthly income for housing costs.